

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.08.2016

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Crl.O.P. No.14766 of 2016  
and Crl.M.P.No.7361 of 2016

V.Gowthaman ..Petitioner

Vs

1.V.S.Sathishkumar  
2. K.Rajagobalan .. Respondents

Prayer:- Criminal Original Petition filed under Section 482 Cr.P.C., to order to withdraw the case in S.T.C.No.4/2016 on the file of the Hon'ble Judicial Magistrate Court, Thiruchengode, Namakkal District and transfer the same to Judicial Magistrate Court No.III, Erode and to try the case in accordance with law.

For Petitioner : Mr.I.C.Vasudevan

For R1 : A.Sundaravadhanan

O R D E R

This petition has been filed to order withdrawal of the case in S.T.C.No.4/2016 on the file of the Judicial Magistrate Court, Thiruchengode, Namakkal District and transfer the same to Judicial Magistrate Court No.III, Erode.

2. Heard Mr.I.C.Vasudevan, learned counsel for the petitioner and Mr.A.Sundaravadhanan, learned counsel for the first respondent.

3. For the sake of convenience, the parties will be referred to by their name.

4. V.S.Sathishkumar has initiated prosecution in S.T.C.No.4 of 2016 before the Judicial Magistrate, Tiruchengode for the offence u/s 138 of the Negotiable Instruments Act against V.Gowthaman. The case was transferred from the file of the Judicial Magistrate, Tiruchengode to the file of the Judicial Magistrate (Fast Track Court, Magisterial level), Tiruchengode and was renumbered as S.T.C. No.38 of 2016 and the same is now pending there.

5. While so, one K.Rajagobalan has initiated prosecution in C.C.No.259 of 2016 before the Judicial Magistrate No.III, Erode against V.Gowthaman for the offence u/s 138 of Negotiable Instruments Act. Now V.Gowthaman is before this Court seeking transfer of S.T.C.No.38 of 2016 (Old S.T.C.No.4 of 2016) from the file of the Judicial Magistrate (Fast Track Court), Tiruchengode to the file of the Judicial Magistrate-III, Erode to be tried along with C.C.No.259 of 2016.

6. The learned counsel for V.Gowthaman contended that V.Gowthaman had no business dealings with V.S.Sathishkumar and V.S.Sathishkumar has been set up by K.Rajagobalan, who is the complainant in C.C.No.259 of 2016 and a prosecution has been launched against V.Gowthaman before the Judicial Magistrate, Tiruchengode as aforesaid. Therefore, if both the cases are heard by a same Magistrate, it will be easier for V.Gowthaman to place his defence before the Court effectively.

7. Per contra, Mr.A.Sundaravadhanan, learned counsel appearing for V.S.Sathishkumar has filed a counter opposing the transfer.

8. On a perusal of the facts and circumstances of the case, it is seen that V.Gowthaman has not even replied to the statutory notice dated 07.07.2015 that was issued by V.S.Sathishkumar, after the cheque dated 22.06.2015, was dishonoured. Had V.Gowthaman replied to the said notice and taken the stand which is canvassed before this Court now, there will be much force in his submission. In the absence of the reply to the notice, this Court cannot by way of an inference, come to the conclusion that V.S.Sathishkumar has been set up by K.Rajagobalan to file a prosecution against V.Gowthaman before the Judicial Magistrate Court, Tiruchengode.

9. It is seen that trial before the Judicial Magistrate, Tiruchengode, has commenced and V.S.Sathishkumar has filed his proof affidavit and has also marked the documents. He has not been cross-examined by V.Gowthaman. Under such circumstances, this is not a fit case to transfer 138 prosecution on the file of the Judicial Magistrate, Tiruchengode to the file of the Judicial Magistrate-III, Erode.

The petition is devoid of merits and the same is dismissed. Consequently, connected miscellaneous petition is closed.

Sd/-  
Assistant Registrar(CCC)

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To

1. The Judicial Magistrate Court,  
Thiruchengode, Namakkal District.

2.The Judicial Magistrate No.III, Erode.

3.The Judicial Magistrate,  
Fast Track Court, Tiruchengode.

4.The Public Prosecutor, High Court, Madras.

1 cc to Mr.I.C.Vasudevan, Advocate, sr.46948

1 cc to Mr.A.Sundaravadhanan, Advocate, sr.46950

Cr1.OP No.14766 of 2016

lrs co  
kra 09.09.2016



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